THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :4388 of 2006

DATED:15-06-2007

BETWEEN:

M/s Laxmi Modern Rice Mill,
Rep., by its Proprietor,
K.Surya Prathap Reddy,
Nellore.

..... PETITIONER

AND

E.S.I.Corporation,
Rep., by its General Manager,
Hyderabad & 3 others.

.....RESPONDENTS

ORDER:

Heard learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the impugned order in proceedings No.AP/SRO/VJA/ RRO/62/Q/0193-05/04, dated 13-02-2006, issued by the 2nd respondent, as illegal and arbitrary.

3. It is the case of the petitioner that as the petitioner failed to pay the E.S.I. contributions along with interest 3rd respondent issued a show cause notice as to why the warrant of arrest should not be issued against it for non-payment of a sum of Rs.49,393/- as per the certificates forwarded by the authorized officer, E.S.I. Corporation to the Recovery Officer in respect of the petitioner towards arrears and the interest. It is stated that pursuant to the said show cause notice, dated 25-05-2005, petitioner paid a sum of Rs.15,000/- on
11-06-2005 and Rs.34,393/- on 07-11-2005 and thus the total demanded amount of Rs.49,393/- was paid. It is stated that, in fact, the petitioner already paid a sum of Rs.13,095/- on 01-02-2001 to satisfy the recovery certificates, dated
02-04-1993, 09-12-1997, 03-08-1998 including interest. It is further stated that even though the principal and interest amount has been

paid 3rd respondent issued the impugned order, dated 13-02-2006, demanding to pay a sum of Rs.48,367/- pursuant to the same recovery certificates, dated 02-04-1997, 09-12-1997 and 03-08-1998. Petitioner questions the said order demanding to pay the said sum of Rs.48,367/- which was already paid as accepted in the counter and therefore, the question of paying the costs and the alleged interest does not arise. It is stated that earlier amounts include interest also and without deducting the earlier amounts, which were already paid, the present order has been issued.

4. A perusal of the record goes to show that the petitioner has not taken into account the payments made by the petitioner and therefore, he has once again demanded the said amount. In view of the facts and circumstances of the case, I am of the opinion that the impugned order is illegal without any justification whatsoever.

5. Accordingly, the Writ Petition is allowed. No order as to costs.

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V.ESWARAIAH,J

15th June, 2007.
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